

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 650 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

MUNICIPAL CORPORATION OF CITY OF AHMEDABAD

Versus

HEIRS OF NARSINHBHAI G PATEL

Appearance:

MR MG NAGARKAR for Petitioner
MR BG PATEL for Respondent No. 1
Rest unserved

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 25/08/2000

ORAL JUDGEMENT

Being aggrieved by the judgment dated 24.12.79
delivered in Civil Suit No. 1663 of 1975 by the City

Civil Court at Ahmedabad, the appellant-original defendant, has approached this court.

2. For the sake of convenience, parties to the litigation have been described as they were arrayed before the trial court. The facts giving rise to the present appeal, in a nutshell, are as under:

3. Shri Narsinhbhai Patel, original plaintiff, had filed a suit for a declaration that the construction put up by the defendant on the land bearing Final Plot No. 222 in Town Planning Scheme No. 11 bearing Survey No. 204/B situated in the sim of Rakhial, Taluka City, Ahmedabad, was illegal and it was further prayed in the suit that the said construction should be ordered to be removed and the plaintiff be given mesne profits at the rate of Rs. 379/- till the construction in question is removed. During pendency of the suit the plaintiff expired and his legal heirs have been joined as plaintiffs. The trial court had ultimately decreed the suit and had directed the defendant to remove the construction in question.

4. Looking to the development which has taken place during the period after the appeal was filed, and looking to the statement made on behalf of the plaintiffs that they are not interested in getting the mesne profit awarded by the trial court, I do not think it necessary to deal with the facts of the case in detail.

5. It has been submitted by learned advocate Shri Nagarkar appearing for the appellant-original defendant that after the suit was decreed, the construction in question had been demolished. So, it is a matter of fact that the construction in question has already been removed.

6. In view of the fact that the construction has been removed and as the plaintiffs are not interested in claiming the mesne profits, in my opinion, the present appeal has become infructuous and, therefore, the appeal is dismissed with no order as to costs.

(A.R. Dave, J.)

(hn)